



A guide to our Probate and Estate Administration services

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Probate is the commonly used word for the process of dealing with the affairs of someone after they die and winding up their estate. If there are executors named in the Will, they are responsible for managing the process and for obtaining the Grant of Probate. If there is no Will or no executor validly appointed or willing or able to act, the people entitled to administer the estate are known as administrators and they will take out a Grant of Letters of Administration. The term 'personal representative' is used to describe both executors and administrators.

The role of personal representative is often an onerous one. It carries significant responsibility. For this reason, many people choose to appoint professional executors, such as trusted solicitors, in their Will. Even if professionals are not appointed under the Will, personal representatives will often engage professionals to assist with the Estate Administration process.

What are the stages of Estate Administration?

There are several stages involved in Estate Administration, including:

- Identifying and valuing the assets and liabilities of the estate as at the date of death
- Ascertaining whether inheritance tax is payable and, if required, reporting the estate to HMRC
- Paying at least the first instalment of the inheritance tax, if needed, and making the appropriate application to the Probate Registry for the Grant of Probate or Letters of Administration

- Collecting in the estate assets and arranging sales as appropriate
- Corresponding with HMRC about the inheritance tax, submitting any amendments as required and settling any outstanding inheritance tax.
- Settling other liabilities of the estate (including any income tax and capital gains tax due)
- Distributing the assets/funds gathered in accordance with the terms of the Will (or in line with the [intestacy rules \(1\)](#) if there is no Will)

Do I need a solicitor?

At DMH Stallard we provide an expert probate service to families and loved ones when someone dies. Depending on your needs we are flexible in the level of service we offer, and we are very clear about [how we charge \(2\)](#) for our probate services. Above all, we appreciate the need families have for certainty, efficiency, and sensitivity at what is often a difficult time.

Do I need probate, or can the estate be dealt with without it?

When the Will is proved by the Probate Registry, executors receive the 'Grant of Probate'. (If there is no Will a document called 'Letters of Administration' is issued instead.) Only then can the personal representatives deal with the deceased's assets – using funds in bank accounts, for example, to pay debts and, ultimately, share the assets out among beneficiaries. Without the Grant you cannot wind up the estate. In many cases, a Grant is essential. However, there is no hard and fast rule as to when it is needed. We are experienced in working out if a Grant is required in a given case.

When can the estate be distributed without probate?

There are, however, circumstances where a Grant will not be needed. Banks will often agree to release funds up to a certain value (the amount differs depending on the institution) without a Grant. Also, where property was owned by the deceased as a joint tenant, the deceased's share passes automatically to the surviving joint tenant. In addition, pensions and life insurance policies will often pass outside of the estate.

What services do you provide?

The amount of work we carry out in each case depends on you. We can provide a full, bespoke service, always providing you with a dedicated lawyer. Alternatively, we can offer a more limited service, enabling you to carry out some of the administration yourself. Whatever your position, you are guaranteed a flexible, transparent, and first-rate service from us.

How long does the probate process usually take?

It is difficult to be precise because so much depends on the size and complexity of the estate. The probate process is also largely dictated by the response times of various agencies like the Probate Registry, HMRC, and financial institutions where the deceased held assets. Matters can be more complicated where, for example, finalising the estate includes a property sale or where someone challenges the Will or makes a claim for provision from the estate.

As a guide, straightforward (non-taxable) estates take between six and 12 months to finalise. More complicated estates can often take up to two years, or sometimes longer.

What documents will you need from me to get started?

The probate process involves a considerable amount of paperwork, and as we proceed we will need a wide range of documents from you. To get started, the most crucial information you will need to provide is:

- The original Will and any codicils as well as any accompanying Letter of Wishes
- The death certificate
- Details of close relatives, including spouse and Children (if there is no Will)
- Proof of your identity and address

Other documents/information we will need from you later include:

- Any funeral invoices and funeral expenses

- Full details of the deceased's assets, including property, bank accounts, pension information, life insurance documents and property title information.
- Details of the deceased's debts, including any mortgage statements, overdrafts, loans and unpaid bills (such as utilities and council tax)
- Details of any gifts made in the seven years before death

How do you handle inheritance tax calculations and HMRC reporting?

A first instalment of inheritance tax (IHT) must (unless a special application is made) be paid by the end of the sixth month after the death occurred, so there is a degree of urgency in relation to gathering all necessary information about the value of the estate and calculating the amount of tax due. We ensure that all allowances and exemptions are reviewed and claimed, if appropriate. These include the tax-free allowance (the Nil Rate Band), the Residence Nil Rate Band (where the deceased's home is being left to a direct descendant), any transferable allowances from a spouse who died earlier, exemptions for charitable gifts, the spousal exemption business and agricultural relief.

To assist with the IHT calculation you should also provide details of any gifts the deceased made to family members and others over the last seven years of their life, details of any trusts the deceased was associated with and, if appropriate and available, estate administration paperwork relating to a predeceased spouse.

Once the net estate value has been calculated we apply the prevailing rate of IHT and submit the information to HMRC on the appropriate form for their consideration.

Until IHT accounts have been submitted and the initial tax paid, the Grant will generally not be issued. Whilst banks will usually agree to release funds directly to HMRC in settlement of the IHT, where funds are not available, HMRC may also allow IHT to be paid in instalments on certain assets or, in some limited circumstances, may agree to issue a Grant on credit.

Will you also deal with selling property?

Yes, as a full-service law firm, dealing with the sale or transfer of the deceased's property, is a core part of the service we provide. We ensure a seamless transition to our property colleagues, and you can continue to liaise with your main contact throughout.

Can you help if there is a dispute between beneficiaries or executors?

By keeping all parties regularly updated and using streamlined internal processes to manage probate efficiently, we hope to minimise disputes between executors and beneficiaries. However, because there can be a conflict between the interests of beneficiaries and executors, disputes can sometimes arise. In some cases, beneficiaries may seek removal of executors they believe are not properly carrying out their role. Perhaps there are unexplained delays, or there is a conflict of interest where an executor is also a beneficiary under the Will. In other cases, there may be an objection to the way the executors intend to distribute the estate. We have a dedicated team of [Contentious Probate solicitors \(3\)](#) who can advise you on this kind of disagreement. We also handle challenges to a Will and claims against the estate under the Inheritance Act.

Do I, as executor or administrator, face any personal liability?

Personal Representatives (PRs) have a range of legal responsibilities, from the duty to act in the best interests of the estate and beneficiaries, to keeping proper estate accounts and taking reasonable care in managing estate assets. If a PR acts negligently, fraudulently or breach their duties in some other way they can be held personally liable. Remember in the case of non-professional executors, the executor is usually an unpaid friend or family member.

Where the Will is unclear and there is the potential for a dispute about the intended beneficiaries, executors should take legal advice and consider taking out insurance to protect themselves against claims they have incorrectly administered the estate.

We can advise on other steps that can be taken to minimise the risk to the personal representatives.

What steps can be taken to speed up or simplify the process?

We fully recognise that delays in the process at a difficult time can be hugely frustrating for families and beneficiaries. We keep all interested parties updated regularly and endeavour to quickly deal with any potential disputes or misunderstandings that could delay matters. With our dedicated teams, carefully designed processes, including the use of the most up to date technology, you can be assured that we will do all we can to gather all information together quickly, manage the probate process efficiently, and minimise delays where possible.

Contact Us

Guildford Probate clinic number: 01483467474



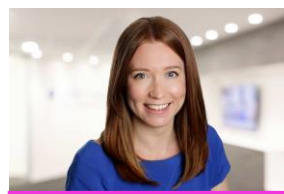
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Our expert team specialises in estate planning, the preparation of wills and LPAs and trust administration.

Link references

(1): <https://www.dmhstallard.com/services/for-you-and-your-family/contentious-probate-disputed-trusts-and-wills/news-insights/intestacy-rules-who-gets-what/>

(2): <https://www.dmhstallard.com/pricing/our-pricing-for-estate-administration-and-uncontested-probate/>

(3): <https://www.dmhstallard.com/services/for-you-and-your-family/contentious-probate-disputed-trusts-and-wills/>

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